

Introduced by Senator Kuehl

February 14, 2001

An act to amend Sections 33353, 33354, and 35179 of, and to add Section 231.6 to, the Education Code, relating to educational programs and activities.

LEGISLATIVE COUNSEL'S DIGEST

SB 225, as introduced, Kuehl. Education: interscholastic athletics: discrimination.

(1) Existing law prohibits discrimination on the basis of sex, ethnic group identification, race, national origin, religion, color, mental or physical disability, or any basis contained in the prohibition of hate crimes, as set forth in specified provisions of law, in any activity conducted by an educational institution that receives, or benefits from, state financial assistance or enrolls pupils who receive state student financial aid. Under existing law, each educational institution is required to have a written policy on sexual harassment, to be provided as specified.

This bill would require each educational institution to have a written policy on discrimination as prohibited on all of those bases, to be provided in the same manner as the policy on sexual harassment. By imposing new duties on school districts regarding this policy, the bill would impose a state mandated local program.

(2) Existing law, until January 1, 2002, describes the California Interscholastic Federation (CIF) as a voluntary organization consisting of school and school-related personnel with the responsibility for administering interscholastic athletic activities in secondary schools and sets forth legislative intent that the CIF, in consultation with the State Department of Education, implement certain policies. Existing



law prohibits a voluntary interscholastic athletic association, of which any public school is a member, from discriminating against, or denying the benefits of any program to, any person on the basis of race, sex, or ethnic origin. Existing law requires the CIF to report to the Legislature on its evaluation and accountability activities undertaken pursuant to those activities on or before January 1, 2002.

This bill would broaden that prohibition against discrimination to include, among others, discrimination on the basis of religion, mental or physical disability, and any basis contained in the prohibition of hate crimes. The bill would also require the CIF to provide information to parents and pupils regarding the resolution of discrimination complaints in interscholastic athletics.

(3) Under existing law, the State Department of Education has certain authority over interscholastic activities including that if the department states that a school district, an association, or consortium of school districts, or the California Interscholastic Federation is not in compliance with state or federal law, the department may require the school district, association, or consortium, or the federation to adjust its policy so that it is in compliance. Under existing law, the department is prohibited from determining the specific policy that a school district, association, or consortium, or the federation must adopt in order to comply with state and federal laws.

This bill would, notwithstanding and other provision of law, allow a complainant who wishes to file a complaint based on interscholastic activities conducted by an association or by the California Interscholastic Federation to file that complaint directly with the department without having to first file a complaint with a school district, and would authorize the department, if it states that an association or the California Interscholastic Federation is not in compliance with state or federal law, to prescribe the specific action that such an association or the California Interscholastic Federation must take in order to comply with state or federal law.

The bill would extend those provisions pertaining to the CIF until January 1, 2007, and would instead require that report to be made to the Governor and the Legislature on or before January 1, 2007.

(4) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement, including the creation of a State Mandates Claims Fund to pay the costs of mandates that do not exceed \$1,000,000 statewide



and other procedures for claims whose statewide costs exceed \$1,000,000.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 231.6 is added to the Education Code,
2 to read:

3 231.6. Each educational institution shall have a written policy
4 on discrimination, as prohibited by this chapter. This policy shall
5 be made available in the same manner as the policy on sexual
6 harassment provided pursuant to Section 231.5.

7 SEC. 2. Section 33353 of the Education Code is amended to
8 read:

9 33353. (a) The California Interscholastic Federation is a
10 voluntary organization consisting of school and school related
11 personnel with responsibility for administering interscholastic
12 athletic activities in secondary schools. It is the intent of the
13 Legislature that the California Interscholastic Federation, in
14 consultation with the State Department of Education, implement
15 the following policies:

16 (1) Give the governing boards of school districts specific
17 authority to select their athletic league representatives.

18 (2) Require that all league, section, and state meetings
19 affiliated with the California Interscholastic Federation be subject
20 to the notice and hearing requirements of the Ralph M. Brown Act
21 (Chapter 9 (commencing with Section 54950) of Division 2 of
22 Title 5 of the Government Code).

23 (3) Establish a neutral final appeals body to hear complaints
24 related to interscholastic athletic policies.

25 (4) *Provide information to parents and pupils regarding the*
26 *resolution of discrimination complaints arising out of*
27 *interscholastic athletic activities.*

28 (b) The California Interscholastic Federation shall report to the
29 Legislature and the Governor on its evaluation and accountability



1 activities undertaken pursuant to this section on or before January
2 1, ~~2002~~ 2005.

3 (c) This section shall remain in effect only until January 1,
4 ~~2002~~ 2007, and as of that date is repealed, unless a later enacted
5 statute, that is enacted before January 1, ~~2002~~ 2007, deletes or
6 extends that date.

7 SEC. 3. Section 33354 of the Education Code is amended to
8 read:

9 33354. (a) The State Department of Education shall have the
10 following authority over interscholastic athletics:

11 (1) The department may state that the policies of school
12 districts, of associations or consortia of school districts, and of the
13 California Interscholastic Federation, concerning interscholastic
14 athletics, are in compliance with both state and federal law.

15 (2) (A) If the department states that a school district, an
16 association, or consortium of school districts, or the California
17 Interscholastic Federation is not in compliance with state or
18 federal law, the department may require the school district,
19 association, or consortium, or the federation to adjust its policy so
20 that it is in compliance. However, the department shall not have
21 authority to determine the specific policy that a school district,
22 ~~association, or consortium, or the federation~~ must adopt in order
23 to comply with state and federal laws.

24 (B) *Notwithstanding any other provision of law, a complainant*
25 *who wishes to file a complaint based on interscholastic activities*
26 *conducted by an association, or by the California Interscholastic*
27 *Federation, shall not be required to first file a complaint with a*
28 *school district, and may file an initial complaint directly with the*
29 *department, and the department shall have the authority to specify,*
30 *with regard to a specific complaint, the specific action that such*
31 *an association or the California Interscholastic Federation must*
32 *take in order to comply with state or federal law.*

33 (3) If the department states that a school district, association, or
34 consortium, or the federation is not in compliance with state or
35 federal law in matters relating to interscholastic activities, and the
36 school district, association, or consortium, or the federation does
37 not change its policy in order to comply with these laws, the
38 department may commence with appropriate legal proceedings
39 against the California Interscholastic Federation, the school
40 district or against school districts that are members of the



1 California Interscholastic Federation or the association or
2 consortium that the department states is in noncompliance. In a
3 legal proceeding the court shall determine the matter de novo. The
4 department may make recommendations for appropriate remedies
5 in these proceedings.

6 (b) This section shall not be construed or interpreted to limit the
7 discretion of local governing boards, or voluntary associations
8 formed or maintained pursuant to subdivision (b) of Section
9 35179, in any policy, program, or activity that is in compliance
10 with state and federal law.

11 (c) The state law with which the policies of school districts,
12 associations, or consortia of school districts, and of the California
13 Interscholastic Federation, concerning interscholastic athletics,
14 are required to comply, in accordance with this section, includes,
15 but is not limited to, any regulations issued by the State Board of
16 Education pursuant to Section 232 with regard to sex
17 discrimination in interscholastic athletics.

18 (d) This Section shall remain in effect only until January 1,
19 ~~2002~~ 2007, and as of that date is repealed, unless a later enacted
20 statute, that is enacted before January 1, ~~2002~~ 2007, deletes or
21 extends that date.

22 SEC. 4. Section 35179 of the Education Code is amended to
23 read:

24 35179. (a) Each school district governing board shall have
25 general control of, and be responsible for, all aspects of the
26 interscholastic athletic policies, programs, and activities in its
27 district, including, but not limited to, eligibility, season of sport,
28 number of sports, personnel, and sports facilities. In addition, the
29 board shall assure that all interscholastic policies, programs, and
30 activities in its district are in compliance with state and federal law.

31 (b) Governing boards may enter into associations or consortia
32 with other boards for the purpose of governing regional or
33 statewide interscholastic athletic programs by permitting the
34 public schools under their jurisdictions to enter into a voluntary
35 association with other schools for the purpose of enacting and
36 enforcing rules relating to eligibility for, and participation in,
37 interscholastic athletic programs among and between schools.

38 (c) Each governing board, or its designee, shall represent the
39 individual schools located within its jurisdiction in any voluntary



1 association of schools formed or maintained pursuant to this
2 section.

3 (d) No voluntary interscholastic athletic association, of which
4 any public school is a member, shall discriminate against, or deny
5 the benefits of any program to, any person on ~~the basis of race, sex,~~
6 ~~or ethnic origin~~ *any basis prohibited by Chapter 2 (commencing*
7 *with Section 200) of Part 1.*

8 (e) Interscholastic athletics is defined as those policies,
9 programs, and activities that are formulated or executed in
10 conjunction with, or in contemplation of, athletic contests between
11 two or more schools, either public or private.

12 (f) This section shall remain in effect only until January 1, ~~2002~~
13 ~~2007~~, and as of that date is repealed, unless a later enacted statute,
14 that is enacted before January 1, ~~2002~~ ~~2007~~, deletes or extends that
15 date.

16 SEC. 5. Notwithstanding Section 17610 of the Government
17 Code, if the Commission on State Mandates determines that this
18 act contains costs mandated by the state, reimbursement to local
19 agencies and school districts for those costs shall be made pursuant
20 to Part 7 (commencing with Section 17500) of Division 4 of Title
21 2 of the Government Code. If the statewide cost of the claim for
22 reimbursement does not exceed one million dollars (\$1,000,000),
23 reimbursement shall be made from the State Mandates Claims
24 Fund.

